



ATTENTION

Probate cases on this calendar are currently under review by the probate examiners. Review of some probate cases may not be completed and therefore have not been posted.

If your probate case has not been posted please check back again later.

Thank you for your patience.

(1) Second and Final Account and Report of Administrator and Petition for its Settlement and (2) for Order for Payment of Claims and (3) for Allowance of Statutory Fees and Reimbursement of Costs and (4) for Final Distribution

DOD: 03/25/02		OLLIE DIMERY-RATLIFF , Administrator, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Account period: 01/01/08 – 12/04/12	
Cont. from			
<input type="checkbox"/>	Aff.Sub.Wit.	Accounting - \$116,884.39	
<input checked="" type="checkbox"/>	Verified	Beginning POH - \$90,000.00	
<input checked="" type="checkbox"/>	Inventory	Ending POH - \$57,319.68 (all cash)	
<input checked="" type="checkbox"/>	PTC		
<input checked="" type="checkbox"/>	Not.Cred.	Administrator - \$3,275.38 (statutory)	
<input checked="" type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail	w/	
<input type="checkbox"/>	Aff.Pub.	Attorney - \$3,275.38 (statutory)	
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.	Costs - \$435.00 (filing fees)	
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters	06/06/06	
<input type="checkbox"/>	Duties/Supp	Closing - \$5,000.00	
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt	Distribution, pursuant to intestate succession and subject to creditor's claims, is to:	
<input type="checkbox"/>	CI Report		
<input checked="" type="checkbox"/>	9202	Ollie Dimery-Ratliff - \$3,737.26	
<input checked="" type="checkbox"/>	Order	Oscar E. Ransom - \$3,737.26	
<input type="checkbox"/>	Aff. Posting	Patricia Dimery - \$3,737.26	
<input type="checkbox"/>	Status Rpt	Ruby Dimery-Levine - \$3,737.26	
<input type="checkbox"/>	UCCJEA	Ollie Dimery-Ratliff - \$3,737.26 (as reimbursement from the Estate of Rosie Dimery, on account of unpaid \$4,710.50 due Ollie Dimery-Ratliff from Rosie Dimery's estate. Rosie Dimery's share of distribution of any remaining closing reserve should be distributed on account of the amount left presently unpaid.)	
<input type="checkbox"/>	Citation	Monica R. Buchannan - \$1,245.76	
<input checked="" type="checkbox"/>	FTB Notice	Erica D. Scott - \$713.11 (\$1,245.76 less claim from Victims Compensation Board in the amount of \$532.65)	
		Bryant M. Cummings - \$1,245.76	
			Reviewed by: JF
			Reviewed on: 02/27/13
			Updates:
			Recommendation: SUBMITTED
			File 1 - Dimery

(1) First Account and Report of Guardian, (2) Petition for Its Settlement, for (3)
Attorney Fees and Reimbursement of Costs Advanced (Prob. C. 2620, 2640, Local
Rules 7.16A, CRC 7.750-7.752)

Age: 8		MARK L. CLARK , Father and Guardian of the Estate, is Petitioner. Account period: 4-21-11 through 4-30-12 Accounting: \$63,498.34 Beginning POH: \$62,466.08 Ending POH: \$57,227.20 (\$1,025.20 cash, remaining funds equities and taxable bonds; account blocked) Conservator: Not addressed Attorney: \$2,546.50 Costs: \$460.50	NEEDS/PROBLEMS/COMMENTS: Note: There are 2 matters on the 9:00 calendar: 3A-continued hearing on the account 3B-status hearing re: receipt for blocked account There is also a separate hearing scheduled at 10:30 re: Surcharge. Minute Order 12-5-12: The Court indicates to counsel that it is concerned with whether or not there is an obligation to surcharge Mark Clark. The Court continues the matter to 1/23/13 for further hearing on the First Account. The issue of surcharge to be addressed at the next hearing. Continued to 1-23-13 Minute Order 1-23-13: The Court orders that all non-bond assets be liquidated and placed in a blocked. The Court will entertain an order shortening time. If there are any issues regarding fees for liquidation. Ms. Sanoian is directed to submit documentation regarding any losses. The Court on its own motion sets the matter for a two hour hearing on the issue of surcharge for 3/5/13. Continued to 2/8/13; Set on 2/8/13 for: Status Hearing Re: Receipt for the Blocked Account. (See Page 3B.) Additional hearing dates: 3/5/13 @ 10:30A Dept. 303 for: Hearing Re: Surcharge Examiner notes previously noted: 1. Guardianship Estate funds are held in a blocked account as ordered; however, Petitioner states the account consists of cash, equities, and taxable bonds. The account incurred a loss in this first account period of \$1,955.14, which was more than the receipts from dividends, etc., during this period. Examiner notes that the Court order does not appear to include authorization of these types of investments. Need clarification with reference to Petitioner's duty to manage the estate in interest-bearing, insured accounts (Probate Code §2453, Duties, etc.). The Court may also require bond, including cost of recovery pursuant to Probate Code §2320(c)(4) and Cal. Rules of Court 7.207, of \$64,085.41 as a blocked account does not protect from losses on investments.
Cont. from 111412, 120512, 012313, 020813			
Aff.Sub.Wit.			
✓ Verified			
✓ Inventory			
PTC			
Not.Cred.			
✓ Notice of Hrg			
✓ Aff.Mail	W		
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
✓ Letters	4-21-11		
Duties/Supp			
Objections			
Video Receipt			
CI Report			
✓ 2620(c)			
✓ Order			
Petitioner prays for an Order: 1. Settling and allowing this account and report and approving and confirming the acts of Petitioner as Guardian; 2. Authorizing payment of the attorney fees and costs; 3. Such other orders as the Court deems proper. Attorney Lisa Horton filed a Declaration on 1-18-13. See Page 2.			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
Reviewed by: skc			
Reviewed on: 2-27-13			
Updates:			
Recommendation:			
File 3A - Clark			

Page 2**Declaration of Lisa Horton in Support of the First Account and Report of Guardian states:**

- The Court asked how the investments complied with the requirements of §2574, and why there was a loss if the assets were ordered to be deposited in a blocked, interest-bearing, insured account per §2453.
- Ms. Horton had previously informed Eric Stine, Vice President of Wedbush, via email on 11-8-12 and telephone on 11-13-12 that the court has several issues with the guardianship estate assets and the loss of value on those assets. She asked Mr. Stine to draft a letter explaining the nature of the account and investments and address the loss to provide an explanation to the Court at the next hearing on 12-5-12. However, a letter was never received.
- At the 12-5-12 hearing date, the matter was continued to 1-23-13 for further explanation and the possibility of surcharge against the guardian.
- Attorney Horton states that on or about 6-7-11, she provided Wedbush a copy of the guardianship order and stated that the account must be in compliance with Probate Code §2574. The receipt for blocked account was signed by the sales office supervisor at Wedbush on 9-1-11. Wedbush was aware that the guardianship assets were to be deposited and invested pursuant to both Probate Code §§ 2453 and 2574. Attorney Horton personally spoke with Eric Stine on 4-6-11 and he told her that he has six guardianship accounts with Wedbush and was familiar with the Probate Code and requirements. However, it was subsequently discovered that guardianship account does not comply with both sections.
- Despite her attempts, Eric Stine will not discuss the account with Attorney Horton any longer and did not provide his counsel's information as requested.
- An analysis of the account shows \$29,000.00 in taxable bonds. §2574 authorizes investments in direct obligations of the United States maturing no later than five years from the investment. According to bank statements, the bonds in the account mature in 2016, 2017, and 2018. As the initial date of investment was 2011, there are two sets of bonds that do not mature within five years of the investment.
- The other portion of the account is made up of various equities. The fact that the account is subject to a blocking order does not completely negate §2574. If an account is blocked, then there are no withdrawals or deposits without court order. §2453 requires interest-bearing, insured account. This does not prevent a guardian from investing pursuant to §2574.
- Attorney Horton believes any assets not invested in bonds per §2574 must be placed into an interest-bearing, insured account. Although §2574 allows for investment in "securities listed on an established stock or bond exchange", without the ability to buy, sale, trade or liquidate pursuant to the blocking order, securities could not effectively be managed.
- Attorney Horton believes the best way to bring this guardianship account into compliance is to liquidate the equities and deposit the proceeds into a blocked CD with an insured financial institution. The taxable bonds should be kept as is to prevent unnecessary losses, and as they mature, the proceeds should be deposited into the blocked account with the other funds.
- The guardian relied in good faith on the representations of Eric Stine and Wedbush. Attorney Horton believes that a surcharge order against the guardian is not necessary as Wedbush did not comply with the court's order.

Status Report filed 2-5-13 states on 1-30-13, a letter was sent via mail and email to Eric Stine at Wedbush. An email response was received the same day stating that court order or power of attorney is required for trading authorization from the attorney. On 1-31-13, Guardian Mark Clark communicated that he is informed and believes there will be no fees associated with liquidation of non bond assets, but that Wedbush requires court order. Order After Hearing for the 1-23-13 hearing was filed 2-8-13.

Age: 8		MARK L. CLARK , Father and Guardian of the Estate, filed his First Account for Account period: 4-21-11 through 4-30-12. At continued hearing on 1-23-13, the Court ordered that all non-bond assets be liquidated and placed in a blocked account and set this status hearing re Receipt. <u>Minute Order 1-23-13:</u> The Court orders that all non-bond assets be liquidated and placed in a blocked. The Court will entertain an order shortening time, If there are any issues regarding fees for liquidation. Ms. Sanoian is directed to submit documentation regarding any losses. The Court on its own motion sets the matter for a two hour hearing on the issue of surcharge for 3/5/13. Continued to 2/8/13; Set on 2/8/13 for: Status Hearing Re: Receipt for the Blocked Account. Additional hearing dates: 3/5/13 @ 10:30A Dept. 303 for: Hearing Re: Surcharge	NEEDS/PROBLEMS/COMMENTS: <u>Continued from 2-8-13</u> <u>The following issue remains:</u> 1. Need receipt for blocked account per minute order 1-23-13.
Cont. from 020813			
Aff.Sub.Wit.			
Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
2620(c)			
Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
		Reviewed by: skc	
		Reviewed on: 2-27-13	
		Updates:	
		Recommendation:	
		File 3B - Clark	

			MARK W. CLARK , Father, is Guardian of the Estate.	Guardian filed an accounting on 10-1-12. At continued hearing on 1-23-13, the Court set this special hearing regarding the issue of surcharge.	NEEDS/PROBLEMS/COMMENTS: <u>This matter is set at 10:30 a.m.</u> <u>Note:</u> There are 2 matters on the 9:00 calendar: 3A-continued hearing on the account 3B-status hearing re: receipt for blocked account This hearing scheduled at 10:30 re: Surcharge was set separately pursuant to Minute Order 1-23-13.
	Aff.Sub.Wit.				
	Verified				
	Inventory				
	PTC				
	Not.Cred.				
	Notice of Hrg				
	Aff.Mail				
	Aff.Pub.				
	Sp.Ntc.				
	Pers.Serv.				
	Conf. Screen				
	Letters				
	Duties/Supp				
	Objections				
	Video Receipt				
	CI Report				
	9202				
	Order				
	Aff. Posting				
	Status Rpt				
	UCCJEA				
	Citation				
	FTB Notice				
					Reviewed by: skc
					Reviewed on: 2-27-13
					Updates:
					Recommendation:
					File 1 - Clark

			DEBORAH K. BOYETT , Court appointed Guardian Ad Litem for Wanda H. Bingham, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
			Petitioner was court appointed as Guardian Ad Litem for Mrs. Bingham on 2-23-12 and continues to serve in that role.	
			On 7-16-12, the Court entered its order fixing and allowing attorney fees for \$7,633.00 for services rendered from 2-23-12 through 6-12-12. That compensation has been received.	
	Aff.Sub.Wit.		Since that date, Petitioner has performed services including multiple communications and meetings with Wells Fargo Bank as Trustee, Randy Grace as Co-Trustee, Attorneys Leigh Burnside for Wells Fargo Bank, Robert Sullivan for Randy Grace, David Roberts for Joan St. Louis (successor conservator), Paul Chambers (Mrs. Bingham's estate planning attorney), and Mrs. Bingham. Petitioner has reviewed multiple items of correspondence regarding the trust and allocation of Co-Trustees' responsibilities, statements and reports provided by Wells Fargo, reviewed court filings related to 2012 gifting and creation of the Wanda Bingham Irrevocable Trust, and attended the court hearing on the same. Itemization attached.	
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
✓	Notice of Hrg			
✓	Aff.Mail	W		
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
	Letters			
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			
Petitioner requests payment from the Byrum C. and Wanda H. Bingham Family Trust for 19.10 hours, including preparation of this petition, and an estimated 1 hour to attend this hearing, at \$250.00/hour, plus costs of \$482.73, for a total of \$4,525.00 .				Reviewed by: skc Reviewed on: 2-27-13 Updates: Recommendation: File 4 - Bingham